

flexible finger [portion] extending outwardly from the base and moveable back and forth between an extended position and a retracted position[,] wherein the flexible finger is integral with the base and extends outwardly over the base at an acute angle with respect to the base such that an opening is defined between the angled finger and the base; and wherein the scrap stripper is effective to engage cut scrap and cause the scrap to be ejected.

Remarks

The comments of the Examiner as set forth in the official office action of August 18, 1999 have been carefully studied and reviewed. In this response, the specification has been amended and claims 1, 2, 3, 6, 8, 10, 11, 15, 16, 20, 26 and 27 have likewise been amended. For the reasons set forth below, it is urged that the present application is in condition for allowance and allowance is respectfully requested.

The Examiner has noted a number of informalities in paragraph 3 of the office action. These concerns have been addressed herein.

With respect to the drawings, the concerns of the Examiner are understood and will be addressed in due course.

Turning to paragraph 8 of the office action, the Examiner has rejected a number of the claims under 35 U.S.C. 112, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the present invention. In general, some of these 112 concerns are appreciated. However, it is respectfully urged, that some of the expressed concerns may reflect a desired style of claim writing, but it is sincerely believed that the claims are not indefinite.

Claims 3 and 10 have been amended to deal with the concern relative to "the direction of travel". With respect to claim 9 and the term "the height" it is respectfully urged that this claim is not

indefinite. This is because it is clear that the blade being referred to has a height. Certainly, when viewed in the context of the present invention and the specification of the present application, it is urged that referring to “the height of the scrap cutting blade” does not render claim 9 indefinite. In view of the amendment to claim 8 it is also believed that claim 14 and the reference to the “angle” is not indefinite. With respect to claim 16, the claim calls for the scrap stripper to flex backwardly, in a direction generally opposite to the direction of travel of the cutting die. Counsel for applicant fails to see any indefiniteness here. Essentially, claim 16 calls for the scrap stripper to flex backwardly in a direction generally opposite to the direction of travel of the cutting die. The claim already calls for a rotary or rotating cutting die and the direction of the cutting die was inserted into the claim to better describe the relative movement of the scrap stripper during the die cutting process. In addition, claim 19 refers to “where the finger and base merge”. That is defining an area of the scrap stripper. Counsel does not really understand how that could be made much clearer. Claim 20 has been amended to positively recite the finger. Likewise, claim 26 has been amended to positively recite the weighted portion. However, the influence of centrifugal force is indeed definite. It is not understood how that portion of the claim could be amended to make it any more definite. The centrifugal force being referred to is not a part of the invention itself, but is a force property or concept that helps describe the action of the rotary cutting die during operation.

Continuing to refer to the 112 concerns, the matter of using “it” in the claim has been corrected. Claim 6 has also been amended to refer to the “erect position”.

With respect to claim 9, it is urged that this claim does further limit the invention of claim 8. In particular, the claim calls for the finger normally extending outwardly past the blade when it assumes a normal non-compressed posture while in a fully compressed position both the finger

and the base are compressed together. Those are limitations that further limit claim 8 and while they may describe the state or nature of the scrap stripper during operation, they still are appropriate limitations for inclusion into a method claim.

Claim 11 has been amended to deal with at least some of the concerns of the Examiner. Claim 15 has been amended to address concerns of the Examiner. Likewise, claims 16 and 20 have been amended. With respect to claim 24, the claim is simply saying that the scrap stripper is selectively weighted. This means that weight can be incorporated into various portions of the scrap stripper to improve performance. Counsel for applicant acknowledges the requirement that the drawings show particular features claimed and consequently it is the intent of applicant to add a new drawing to show this feature of the present invention.

Finally, claim 26 has been amended to depend from claim 24 as opposed to claim 25.

Claims 1-21, 24 and 26 stand rejected under 35 U.S.C. 102 as being anticipated by the commonly owned patent of Smithwick, Jr. et al. It is true that Smithwick does disclose a scrap ejector for a rotary cutting die. However, a comparison of Smithwick and the claims of the present invention reveals that there are significant structural and functional differences between Smithwick and the present invention.

The Smithwick invention includes a web including a plurality of lugs extending from opposed edges of the web. The lugs on the top and bottom are offset. When the Smithwick ejector is compressed between the die board and anvil, the lugs tend to be squashed downwardly towards the web where they essentially expand outwardly and there is a tendency to fill the spaces between the respective lugs. The present invention on the other hand includes a finger that is integral with the base and which extends upwardly at an acute angle over the base so as to

define a space between the finger and the base. This is particularly illustrated in Figures 2 and 3A of the present patent application. Those basic distinctions are set forth in the pending claims.

In particular, note claim 1, as amended, where the scrap stripper is defined as including a base and a flexible finger integral with the base and extending outwardly over the base and at an acute angle with respect to the base such that an opening is defined between the angled finger and the base. Thus as seen in Figure 2, the finger is angled back over the base so as to form an opening between the angled finger and the base. This is to be contrasted with the Smithwick ejector which simply includes a series of spaced apart upright lugs. The lugs do not meet the limitation that the finger forms an acute angle with the base and extends back over the base so as to form an opening between the angled finger and the base. In the Smithwick reference, the lugs are not angled as they extend upwardly and certainly do not form an acute angle with the base in such a fashion that the lugs would extend back over a portion of the base. In addition, as set forth in claim 1 of the present application there is an opening that exists between the angled finger and the base. There is no such opening in the Smithwick reference.

Turning to claim 8, note paragraph c and the amended portions therein. This claim, like claim 1, calls for the flexible finger to extend outwardly over the base at an acute angle with respect to the base such that an opening is defined between the angled finger and the base. Again the Smithwick reference does not teach an angled finger and certainly does not teach an angled finger that extends at an acute angle with respect to the base and defines an opening that actually exists between the finger and the base.

Turning to independent claim 15, it is noted that paragraph d thereof states that the outer flexible portion extends outwardly from the base and at an acute angle with respect to the base. Further, paragraph d of claim 24 recites that there is formed an open relief area defined

intermediately between the outer portion and the base within the scrap stripper. This of course means that the outer portion while extending at an acute angle over the base defines a relief area that exists between the acute orientation of the outer portion and the underlying base. Again, this defines over the Smithwick reference. The Smithwick reference does not include an outer portion that extends outwardly from a base at an acute angle thereto so as to define a relief area that actually exists between the angled outer portion and the underlying base. Likewise, claim 27 calls for the flexible finger to be integral with the base and extending outwardly over the base at an acute angle with respect to the base such that an opening is defined between the angled finger and the base.

For the reasons set forth above, it is respectfully urged that the present application is in consideration for allowance and allowance is respectfully requested.

Respectfully submitted,

COATS & BENNETT, P.L.L.C.
Attorneys for Applicant

By:


Larry L. Coats
Registration No. 25,620

Telephone: (919) 854-1844

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS DOCUMENT IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL, POSTAGE PREPAID, IN AN ENVELOPE ADDRESSED TO: COMMISSIONER OF PATENTS AND TRADEMARKS, WASHINGTON, D.C. 20231.

SIGNATURE



DATE

